

REMARKS

Claims 9-21 are pending in this application. By this Amendment, claim 9 is amended. Support for the amendments to claim 9 may be found on page 13, line 23 - page 16, line 13 of Applicants' specification, for example. No new matter is added. Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

I. Information Disclosure Statements

Applicants request the Examiner to consider the information cited in the May 21, 2005, September 15, 2006 and May 31, 2007 Information Disclosure Statements. Applicants further request that, upon considering the information, the Examiner initial next to the references on each PTO-Form 1449, and send initialed copies to Applicants.

II. §102 Rejection

The Office Action rejects claims 9-21 under 35 U.S.C. §102(b) over U.S. Patent No. 4,651,846 to Headrick. The rejection is respectfully traversed.

A. Independent claim 9

On page 2, the Office Action asserts that the recited first set device reads on the first gear 42 in Headrick and that the recited second set device reads on the second gear 44 in Headrick. The first and second gears in Headrick are only two conventional gears for main drive transmission 40 (column 4, lines 36-43). Headrick does not disclose a selection member wherein in the first mode a rotation speed of the prime mover is set according to either the operation of the first operating member or the operation of the second operating member, and in the second mode the rotation speed of the prime mover is set according to the operation of the second operating member regardless of the operation of the first operating member, as recited in claim 9.

B. Independent claim 10

As discussed above, the Office Action asserts that the recited first set device reads on the first gear 42 in Headrick and that the recited second set device reads on the second gear 44 in Headrick. The Office Action does not state, however, which units in Headrick correspond to the recited first and second operating members, selection member or rotation speed control device. Moreover, Applicants submit that Headrick does not disclose a first operating member, a second operating member, a selection member or a rotation speed control device, as recited in claim 10.

In particular, Headrick does not disclose a rotation speed control device that controls a prime mover rotation speed to match with the first set rotation speed when the selection member selects the first mode, and that controls the prime mover rotation speed to match with the second set rotation speed when the selection member selects the second mode, as recited in claim 10.

On page 3, the Office Action asserts that pedal 78 corresponds to the recited first operating member and that operator-controlled means (e.g. joystick) 72 corresponds to the recited second operating member (Headrick at col. 4, lines 26-31 and col. 5, line 47). Headrick does not disclose, however, that these devices control the same speed. Thus, Headrick does not disclose a rotation speed control device that controls *a prime mover rotation speed* to match with the first set rotation speed ... and that controls *the prime mover rotation speed* to match with the second set rotation speed, as recited in claim 10 (emphasis added).

C. Summary

In view of the above, Headrick does not disclose the features recited in independent claims 9 and 10. Thus, Headrick does not disclose the features of the dependent claims for at

least their dependence on respective base claims, as well as for the separately patentable subject matter that each of these claims recites.

III. The Office Action is Incomplete

The Office Action does not cite any portion of Headrick as allegedly disclosing numerous features of claims 9, 10, 14, 15, 20 and 21. In response, Applicants note that:

1. 37 CFR 1.104 (c)(2) (Completeness of examiner's action) states that: "In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified." (emphasis added).
2. MPEP 707.07(e) states that "An omnibus rejection of the claim 'on the references and for the reasons of record' is stereotyped and usually not informative and should therefore be avoided[" (emphasis added).
3. MPEP 706.07 states that "Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied[" (emphasis added).

By not citing any passage in Headrick as disclosing numerous features recited in the pending claims, the Office Action fails to fully explain the rejections (37 CFR 1.104) or to deal justly with the applicant and the public by fully applying the reference (MPEP 706.07). Instead, the uninformative omnibus rejection of the pending claims promotes piecemeal prosecution of this application, which should be avoided (MPEP 707.07 (e) and (g)).

Accordingly, Applicants respectfully request that any future Office Action rejecting the pending claims answer all material traversed (MPEP 707.07(f)), fully explain the rejections and fully apply the reference or references, and be made non-final in view of the current Office Action's incompleteness (MPEP 706.07(a)).

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 9-21 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:
Petition for Extension of Time

Date: April 2, 2009

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